

**SANMINA CORPORATION**  
**TERMS OF SALE**

1. Prices. Prices are based on the specifications and quoted quantities, and include SANMINA-designed packaging. Prices exclude export licensing of the Product; payment of broker's fees; taxes duties or similar charges (other than those based on net income of SANMINA) imposed by any taxing authority upon the manufacture, sale, shipment, storage, "value add" or use of the Product which SANMINA is obligated to pay or collect; and setup, tooling, or non-recurring engineering activities. Prices shall remain fixed for the term of the Agreement, subject to SANMINA's right to revise Prices (i) to account for any variations on the market prices of components, parts and raw material (collectively "Components"), including any such variations resulting from shortages, (ii) to account for any changes in the exchange rate between the currency in which the pricing is calculated and the currency in which SANMINA pays for its labor, overhead, and Components, or (iii) in the event of a change in the specifications or quantities ordered. On the first business day of the third month of any calendar quarter prior to the quarter of application, the parties shall establish the exchange rates ("Contract Rates") to be applied to the following quarter's costs (for those costs denominated in currencies different from the currency in which the Price is denominated). The source of the Contract Rates will be the spot rates published by the *Wall Street Journal* or the *Financial Times of London* (CUSTOMER's option) reflecting the previous day's closing rates.

2. Payment Terms. Payment terms are net thirty (30) days after date of invoice. On any invoice not paid by maturity date, CUSTOMER shall pay interest from maturity to date of payment at the rate of 1.5% per month. Any pricing or quantity discrepancies must be brought to SANMINA's attention within five (5) days after receiving these terms.

3. Orders and Forecasts.

a. General. CUSTOMER shall provide SANMINA with 90 days' worth of firm purchase orders ("Orders") and a forecast for Product requirements for an additional nine (9) months ("Forecast"). The Orders shall be binding and may be rescheduled only in accordance with this Section. CUSTOMER acknowledges that SANMINA shall make purchase commitments (including purchase commitments for Long Lead-time Components) to its Component suppliers ("Vendors") based upon the Order and Forecast, and CUSTOMER shall be responsible for all such Components purchased in support of CUSTOMER's then-current Forecast and Orders. For all other purposes, however, the Forecast shall be non-binding.

b. Long Leadtime Items; Minimum/Multiple Buys. CUSTOMER acknowledges that SANMINA often must place orders for Components well in advance of the CUSTOMER's delivery date. At CUSTOMER's request, SANMINA will provide to CUSTOMER a list of Components with leadtimes in excess of ninety days ("Long Leadtime Components"). CUSTOMER acknowledges that Vendor leadtimes are subject to change, and agrees to be financially responsible for all Long Leadtime Components purchased in accordance with the Vendor's then-current leadtimes. CUSTOMER further acknowledges that SANMINA will be required to order Components in accordance with the various minimum buy quantities, tape and reel quantities, and multiples of packaging quantities required by the Vendor, and agrees that it shall be financially responsible for all such Components.

c. A/B/C Stratification. In addition to ordering to leadtime (as provided in Section 3(b)), CUSTOMER acknowledges that SANMINA will order Components in quantities sufficient to support up to six months of CUSTOMER's Forecast. SANMINA will place orders with its vendors for approximately two to three weeks' worth of Class A Components (the approximately 3% of Components which comprise approximately 80% of the bill of materials), three months' worth of Class B Components (the approximately 17% of Components which comprise approximately 17% of the bill of materials) and six months' worth of Class C Components (the approximately 80% of Components which comprise approximately 3% of the bill of materials).

d. Reschedules. CUSTOMER may reschedule all or part of a scheduled delivery one time per quarter (for a maximum of two quarters) for a period not to exceed forty-five (45) days. At the end of this forty-five day period, CUSTOMER shall either accept delivery of rescheduled finished units and/or pay SANMINA's Delivered Component Cost (SANMINA's quoted cost of Components as stated on the bill of materials plus a materials margin equal to 15%) associated with rescheduled units not yet built.

e. Excess and Obsolete Components. Within a reasonable time after the end of each calendar quarter, SANMINA shall advise CUSTOMER in writing of any excess/obsolete Components in its inventory and the Delivered Cost of such Components. CUSTOMER shall pay for all Components which it agrees are excess/ obsolete. In the event CUSTOMER doesn't feel that a Component is excess/obsolete, it shall only be required to pay for the Component in the event said Component remains excess/obsolete at the end of the following quarter.

f. Liability. CUSTOMER acknowledges that it shall be financially liable for all Components ordered in accordance with this Section. CUSTOMER's Component Liability shall be equal to SANMINA's Delivered Cost of all Components ordered in support of any Order or Forecast, less the actual cost of those Components which are

returnable to Vendor (less any cancellation or restocking charges). SANMINA shall use commercially reasonable efforts to minimize CUSTOMER'S Component Liability by attempting to return Components to the Vendor; provided, however, that SANMINA shall not be obligated to attempt to return to Vendor Components which are, in the aggregate (e.g., per line item), worth less than \$1,000.

**4. Delivery/Acceptance.** All Product shipments shall be F.O.B. SANMINA's facility of manufacture and freight collect; title to and risk of loss or damage to the Product shall pass to CUSTOMER upon SANMINA's tender of the Product to CUSTOMER's carrier. Acceptance of the Product shall occur no later than fifteen (15) days after shipment, and shall be based solely on whether the Product passes a mutually agreeable Acceptance Test Procedure or Inspection designed to demonstrate compliance with the Specifications. Product cannot be rejected based on criteria that were unknown to SANMINA or based on test procedures that SANMINA does not conduct. Product shall be deemed accepted if not rejected within this fifteen-day period.

**5. Warranty.** SANMINA's warranty period is for one year from date of manufacture and is limited to correction of defects in SANMINA workmanship. SANMINA shall, at its option and at its expense, repair, replace or issue a credit for Product found defective during the warranty period. In addition, SANMINA will pass on to BUYER all manufacturers' Component warranties to the extent that they are transferable, but will not independently warrant any Components. All warranty returns shall be done in accordance with SANMINA's authorized returned material policy. SANMINA's warranty does not include Products that have defects or failures resulting from CUSTOMER's design of the Products; accident, disaster, neglect, abuse, misuse, improper handling; alterations, modifications or repairs by CUSTOMER or third parties; or defective CUSTOMER-provided test equipment or test software. CUSTOMER bears all design responsibility for the Product. THE SOLE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR, REPLACEMENT OR CREDIT FOR DEFECTIVE PARTS AS STATED ABOVE. THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, NON-INFRINGEMENT, COMPLIANCE WITH ROHS AND WEEE (AND SIMILAR LEGISLATION IN OTHER COUNTRIES), AND FITNESS FOR A PARTICULAR PURPOSE.

**6. Termination.** In the event an Order is cancelled or this Agreement is terminated for any reason (including a breach by SANMINA or a Force Majeure Event), CUSTOMER shall pay SANMINA, termination charges (collectively, the "Termination Charges") equal to (1) the contract price for all finished product existing at the time of termination; (2) SANMINA's cost for all work in process; and (3) SANMINA's Delivered Cost of Components ordered in support of CUSTOMER's Orders or Forecast, as further described in Section 3(f).

**7. Indemnification.** SANMINA shall indemnify, defend, and hold CUSTOMER and CUSTOMER's affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives harmless from all third party demands, claims, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses (including fees and disbursements of counsel) of every kind (each a "Claim," and, collectively "Claims") (i) based upon personal injury or death or injury to property (other than damage to the Product itself, which is handled in accordance with the Warranty Section) to the extent any of the foregoing is proximately caused either by the negligent or willful acts or omissions of SANMINA or its officers, employees, subcontractors or agents and/or (ii) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, mask work, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with SANMINA's manufacturing processes. CUSTOMER shall indemnify, defend, and hold SANMINA and SANMINA's affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives harmless from all third party Claims (i) based upon personal injury or death or injury to property to the extent any of the foregoing is proximately caused either by a defective Product or by the negligent or willful acts or omissions of CUSTOMER or its officers, employees, subcontractors or agents and/or (ii) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, mask work, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the Products, except to the extent that such infringement exists as a result of use by CUSTOMER of SANMINA's manufacturing processes.

**8. Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION SET FORTH IN THIS SECTION SHALL APPLY WHERE THE DAMAGES ARISE OUT OF OR RELATE TO THIS AGREEMENT. For the purpose of this Section, both lost profits and damages resulting from value added to the Product by CUSTOMER shall be considered consequential damages, but amounts required to be paid to a third party as a royalty or license fee shall not be considered consequential damages. IN NO EVENT SHALL SANMINA'S LIABILITY UNDER THIS AGREEMENT FOR ANY

PRODUCT (WHETHER ASSERTED AS A TORT CLAIM OR CONTRACT CLAIM) EXCEED THE AMOUNTS PAID TO SANMINA FOR SUCH PRODUCT HEREUNDER. IN NO EVENT WILL SANMINA BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY CUSTOMER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. Other. Any changes to the Product or specifications shall be done through SANMINA's standard ECO process. Each party will agree to maintain the confidentiality of the other party's confidential information. This Agreement shall be governed in accordance with the laws of California, and the state or federal courts in Santa Clara County, California shall have exclusive jurisdiction over this Agreement.